

UNITED STATES OF AMERICA,
Plaintiff,
vs.
GUADALUPE ROJAS-GUZMAN,
Defendant.

ORDER

1 of 2

1 Defendant has now filed a successive § 2255 motion. Although Defendant has not styled
2 his motion as a § 2255 motion, he is “claiming the right to be released upon the ground that the
3 sentence was imposed in violation of the Constitution or laws of the United States . . . [and] is
4 otherwise subject to collateral attack.” 28 U.S.C. § 2255. Specifically, he asks the Court to
5 dismiss the indictment that led to his conviction based on 8 U.S.C. § 1326 and the Due Process
6 Clause. He also seeks dismissal through collateral attack. “[A] disguised second or successive §
7 2255 motion . . . must meet the criteria set forth in § 2255(h).” *United States v. Washington*, 653
8 F.3d 1057, 1059-60 (9th Cir. 2011). Under § 2255(h), a prisoner must petition the Court of
9 Appeals for permission to file a successive motion, which Defendant has not done. The Court
10 denies the motion.

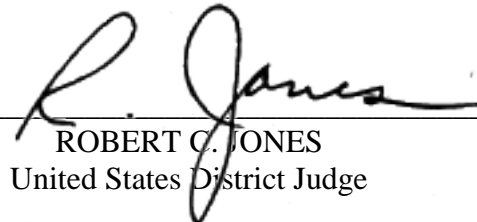
11 CONCLUSION

12 IT IS HEREBY ORDERED that the Motion to Dismiss (ECF No. 43) is DENIED.

13 IT IS FURTHER ORDERED that the Motion to Suppress Removal Order (ECF No. 45)
14 is DENIED.

15 IT IS SO ORDERED.

16 Dated this 29th day of June, 2016.

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19 ROBERT C. JONES
United States District Judge
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